

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CIRON B. SPRINGFIELD,

Petitioner,

v.

ROBERT BURTON, WARDEN,

Respondent.

No. 2:22-cv-0568 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and filed a motion to proceed in forma pauperis (ECF No. 5). The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On June 15, 2022, the undersigned reviewed petitioner's trust fund account statement and found that petitioner was able to pay the filing fee. See ECF No. 7. As a result, petitioner was directed to pay the \$5.00 fee or face a recommendation that his motion to proceed in forma pauperis be denied and the action dismissed without prejudice. Id. Petitioner has not paid the filing fee, nor responded to the court's order in any way, within the time provided.

Petitioner's in forma pauperis affidavit reports a trust account balance of \$3,205.07. See ECF No. 5 at 4. This does not establish that plaintiff is unable to pay the \$5.00 filing fee required by 28 U.S.C. § 1914(a) to commence a habeas corpus action in federal district court. See 28 U.S.C. § 1915(a) (in forma pauperis standard). Accordingly, petitioner has made an inadequate

1 showing of indigency. See Alexander v. Carson Adult High School, 9 F.3d 1448 (9th Cir. 1993).

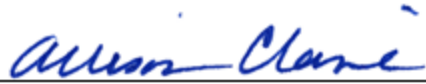
2 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court randomly assign a
3 District Judge to this action.

4 IT IS FURTHER RECOMMENDED that

- 5 1. Petitioner's motion to proceed in forma pauperis (ECF No. 5) be DENIED; and
- 6 2. This action be DISMISSED without prejudice for failure to pay the filing fee. See 28
7 U.S.C. § 1914(a).

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, petitioner may file written
11 objections with the court. Such a document should be captioned "Objections to Magistrate
12 Judge's Findings and Recommendations." Petitioner is advised that failure to file objections
13 within the specified time may waive the right to appeal the District Court's order. Martinez v.
14 Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: July 12, 2022

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE
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